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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,508	07/24/2003	Mohsen D. Shabana	GP-302538	1966

7590 12/02/2004

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EXAMINER

GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,508

Applicant(s)

SHABANA ET AL.

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 3-5, 7-12, 14 and 21-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 3-5, 7-12, 14, and 21-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention group and/or species. Election was made **without** traverse in the reply filed on 9-23-04. Applicant should note, claim 14 has been included in the withdrawn claims as drawn to a non-elected species – such claim apparently being inadvertently omitted from applicant's listing.

2. It is requested that applicant cancel at least non-elected claims 21-31 in response to this action to facilitate the issue process if the application is ultimately allowed.

3. The disclosure is objected to because of the following informalities: "to" is misspelled in line 9 of paragraph 19.

Appropriate correction is required.

4. Applicant should note, while a complete action on the merits is not contained herein for withdrawn claim 11, in an effort to expedite prosecution, the following potential defect is noted. "the longitudinal axis" on line 5 should apparently be –a longitudinal axis—for added clarity.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 6, 13 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Mysliwiec et al.

Mysliwiec et al teaches a vehicle armrest support portion 72 which is pivotally mounted in a vehicle door 74 for movement between a horizontal use position and a vertical stowed position as broadly claimed.

Re claim 1, it is noted that the system functions to automatically actuate the armrest during opening and closing of the door. The horizontal and vertical positions, nevertheless, are deemed fairly readable on the first and second positions as broadly claimed.

Re claim 2, the armrest is powered. Operation of the armrest is effected by the occupant via opening the door.

Re claim 6, to the extent that the support portion moves through all angles between horizontal and vertical during pivoting, it is deemed positionable as broadly claimed.

Re claim 13, at least the upper section of trim 16 is fairly readable on the mounting portion as broadly claimed.

Re claims 15 and 16, the armrest is deemed flushly mounted within a vehicle door recess as broadly claimed – see figure 1 etc.

Re claim 17, the armrest is deemed to form a module as broadly claimed.

7. Claims 1 and 18-19 are rejected under 35 U.S.C. 102(a) as being anticipated by 2001/0052715 to McAndrew et al (hereinafter referred to as "McAndrew et al").

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McAndrew et al teaches an adjustable armrest system defining an armrest portion which includes a pivotable support portion 40 as broadly claimed. The support portion is pivotally movable between a first sufficiently horizontal position (figure 2) to present itself for use as broadly claimed and a second sufficiently vertical position (figure 3) readable on a stowed position as broadly claimed. The second position provides more space for the occupant as broadly claimed – see figure 3.

Re claims 18 and 19, McAndrew et al teaches at least a mirror control at 50.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/45996 A2 (hereinafter referred to as "Bornchen et al") in view of Heimnick et al.

Bornchen et al teaches a motorized adjustable armrest for a vehicle including a support portion (2) pivotally mounted for movement between a first sufficiently horizontal use position (figure 1a top phantom position) and a second sufficiently vertical storage position (lower solid line portion in figure 1a) to provide more space as broadly claimed.

Bornchen et al further teaches that armrest controls can be attached on the vehicle for controlling the movement of the support portion 2 but fails to specifically teach that such controls are positioned on the support portion.

Heimnick et al teaches a motorized movable armrest for a vehicle (figure 1) which includes controls 62 on the movable armrest support portion for controlling movement of the armrest support portion.

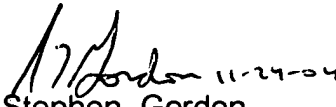
In order to allow for more convenient user access and/or to provide more space on the vehicle for mounting other features, it would have been obvious to one of ordinary skill in the art to locate the armrest support portion controls on the movable support portion of Bornchen et al in view of the teachings of Heimnick et al.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Montage et al teaches a pivotable armrest assembly.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (703) 308-2556. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg